

**Economic Development,
Agriculture & Trade Committee**

HB 1801

Brief Description: Providing a real estate excise tax exemption for certain farm and agricultural land.

Sponsors: Representatives Grant, Kretz, Linville, Orcutt, Morrell, Buri, Quall, Kristiansen, Holmquist, Cox, Hasegawa, McCune, Eickmeyer, Condotta, Dunn, Walsh, Haigh and Newhouse.

Brief Summary of Bill

- Exempts from the state real estate excise tax certain sales of farm and agricultural lands.

Hearing Date: 2/15/05

Staff: Meg Van Schoorl (786-7105).

Background:

The real estate excise tax (REET) applies to sales of real property in the state and to transfers of controlling interests in entities that own real property in the state. For the purpose of the REET, real property includes any interest, estate, or beneficial interest in land or anything affixed to land.

The amount of tax due is based on the selling price, including any liens, mortgages, or other debts, of the real property sold. The state tax rate is 1.28 percent. After a deduction for administrative costs at the county level, 7.7 percent of the proceeds are deposited to the public works assistance account and the balance is deposited to the state general fund. There are also optional local REETs; the rates vary by jurisdiction and range from 0.25 percent to 1.5 percent. Some cities and counties impose no REET.

The Department of Revenue (Department) is generally responsible for the REET, including promulgation of rules, preparation of the affidavit form, and enforcement actions. County treasurers collect the state and local taxes, except for the tax that applies to acquisition of the controlling interests.

The REET is typically paid by the seller, although the buyer is liable for the REET if it is not paid. Penalties and interest apply if the tax is not paid within 30 days from the date of the sale. Administration of the REET begins following a sale of real estate when an affidavit is filed along with the applicable tax at the treasurer's office in the county in which the real property is

transferred or sold. The affidavit is required to contain the identification of the buyer and seller, a description of the parcel, the selling price, and other information about the property. An exception to this process occurs when the tax is triggered by a transfer in the controlling interest of property; in that case, the tax and affidavit are submitted directly to the Department.

According to the Department, collections of the state REET in fiscal year 2004 amounted to \$615.6 million. According to data reported by local governments to the State Auditor, local REET collected during calendar year 2003 amounted to \$213.6 million (cities: \$128.4 million; counties: \$ 85.2 million).

Definitions of "farmer" and "farm and agricultural lands"

A "farmer," as defined in RCW 82.04.213(2), is a person engaged in the growing, raising, or producing, upon the person's own lands or those in which the person has a present right of possession, any agricultural product to be sold.

"Farm and agricultural land," as defined in RCW 84.34.020(2)(a), is one parcel or multiple contiguous parcels totaling twenty acres of land or more that are devoted primarily to production of livestock or agricultural commodities for commercial purposes, or enrolled in the USDA Conservation Reserve Enhancement Program, or engaged in similar commercial activities established by rule.

Summary of Bill:

A sale of a farm and agricultural land is exempted from the state real estate excise tax when it meets the following conditions:

(1) The purchaser of the real property is a farmer as defined in RCW 82.04.213(2) who has averaged \$250,000 or less in annual gross receipts from sales of agricultural products over the last five years and who, along with his or her family, provides a majority of the daily labor for or management of the farm for at least ten years following the sale; and

(2) The farm and agricultural land as defined in RCW 84.34.020(2)(a) is not converted to a different purpose or use within ten years of the sale.

The purchaser claiming the exemption must file federal tax returns covering five previous years along with the affidavit to the county treasurer following the sale.

Within ten years of the sale, if the purchaser or the use of the land no longer meets the qualifications for the exemption, the purchaser must pay the entire amount of tax that would have been due at the time of sale plus interest and penalties. If acts or circumstances not attributable to the purchaser cause the disqualification to occur, the purchaser will not have to pay additional taxes, interest or penalties.

The proposed exemption does not apply to the local REET.

Appropriation: None.

Fiscal Note: Requested on February 7, 2005.

Effective Date: The bill contains an emergency clause and takes effect on July 1, 2005.